

# MEMORANDUM

September 19, 2005

TO: THE LOS ANGELES COUNTY CLAIMS BOARD

FROM: MILLICENT L. ROLON  
Principal Deputy County Counsel  
Law Enforcement Services Division

RE: Woodrow Cox v. County of Los Angeles, et al.  
Los Angeles Superior Court Case No. BC 305717

DATE OF  
INCIDENT: December 29, 2002

AUTHORITY  
REQUESTED: \$95,000

COUNTY  
DEPARTMENT: Probation Department

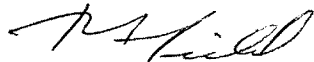
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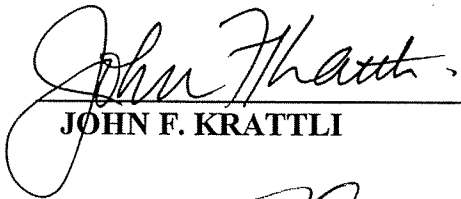
## CLAIMS BOARD ACTION:

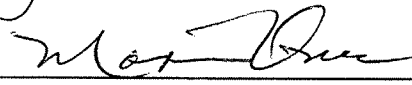
☒ Approve

☐ Disapprove

☐ Recommend to Board of  
Supervisors for Approval

  
\_\_\_\_\_, Chief Administrative Office  
**ROCKY A. ARMFIELD**

  
\_\_\_\_\_, County Counsel  
**JOHN F. KRATTLI**

  
\_\_\_\_\_, Auditor-Controller  
**MARIA M. OMS**

on October 3, 2005

## SUMMARY

This is a recommendation to settle for \$95,000 a lawsuit brought by a former Los Angeles County Probation Department employee, Woodrow Cox, who alleges that he was subjected to discrimination and harassment based on physical disability and age in violation of the Fair Employment and Housing Act ("FEHA"). He also alleges that he was constructively discharged in violation of Labor Code Section 1102.5.

## LEGAL PRINCIPLES

It is a violation of the FEHA for an employer to discriminate against or harass an employee based upon an employee's disability or age.

A constructive discharge occurs when an employer deliberately causes or allows the employee's working conditions to become so intolerable that the employee is forced into an involuntary resignation.

When an employee prevails in a lawsuit brought under the FEHA, the employee is entitled to an award of attorney's fees.

## SUMMARY OF FACTS

In December 2002, Woodrow Cox, a Director with the Probation Department, was informed by his superiors that they wanted him to transfer from Camp Routh to Barry J. Nidorf Juvenile Hall, because they needed his expertise as a Director at that location. At this meeting, Mr. Cox alleges that he informed his superiors that his "health and psychological makeup was not fit to assume that kind of role," and that he did not have the "stamina" needed for the position. Mr. Cox also claims that he informed them that he suffered from diabetes, high blood pressure and stress, and did not want to transfer. According to Mr. Cox, he was asked how many years of service he had and was told he should think about retiring.

A few days after his meeting, Mr. Cox received an office memorandum listing his transfer to the Barry J. Nidorf Juvenile Hall effective January 3, 2003. Thereafter, Mr. Cox filed for industrial injury and did not return to work at the Probation Department. Mr. Cox's last day of work as a Probation Director was December 29, 2002. He subsequently retired in March 2005 after 39 years with the Department.

Mr. Cox alleges that the Department transferred him to the strenuous duties at the Barry J. Nidorf Juvenile Hall in spite of his expressed reluctance due to his physical ailments, and in an effort to force him to retire.

The Probation Department denies any knowledge that Mr. Cox suffered from a disability. Further, it is Probation Department policy that Directors can be transferred at anytime. In this case, the Probation Department sought to transfer Mr. Cox to the Nidorf Juvenile Hall, because his expertise was needed at that location. The Probation Department sought to transfer Mr. Cox for a legitimate business reason and was not trying to force him to retire.

## DAMAGES

Mr. Cox alleges that he was constructively discharged and forced to retire prematurely, which has caused lost earning capacity and lost benefits. Further, Mr. Cox alleges emotional distress as a result of the alleged harassment and discrimination.

Should the matter proceed to trial, we believe the potential damages could be as follows:

Lost wages	\$167,000
Emotional distress	\$200,000
Attorney's fees	<u>\$150,000</u>
Total	<u>\$517,000</u>

The settlement calls for the County to pay \$95,000 to Mr. Cox for all of his claims for damages, costs and attorney's fees.

## STATUS OF CASE

The trial court proceedings have been suspended pending consideration of this proposed settlement recommendation.


Prior to this recommended settlement being reached, Mr. Cox's settlement demand was \$275,000. Therefore, this matter had to be fully prepared for trial. The expenses incurred by the County are \$93,868 in attorney's fees and \$5,370 in costs.

## EVALUATION

This is a case of potential liability. Although we believe the evidence would show that the Probation Department did not discriminate against or harass Mr. Cox on the basis of his age and/or disability, an independent medical examiner did conclude that Mr. Cox was unable to return to work due to his medical condition and the emotional distress he experienced. Based on his medical condition and combined with his 39 years of service with the Department, a jury could return a verdict in favor of Mr. Cox. Further, if Mr. Cox were to prevail at trial, he would be entitled to an award of attorney's fees.

Therefore, it is believed that the best interest of the County would be served by settling this case for \$95,000. The Probation Department concurs in this settlement recommendation.

APPROVED:

  
for ROGER H. GRANBO  
Assistant County Counsel  
Law Enforcement Services Division

MLR:deb